Remarks

1. The Examiner has rejected Amended Claim 1 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,549,721 issued to *Stone*. The Applicants respectfully traverse said rejection and request that, upon consideration of the re-amendment of Amended Claim 1 set forth above, and upon review of the traversing arguments set forth below, the Examiner declines to extend said rejection to re-Amended Claim 1.

Traversing arguments follow:

Argument Traversing Novelty Rejection of Amended Claim 1

Amended Claim 1 included a limitation requiring that the variable fulcrum means have a pivot, and further included a limitation requiring that the variable fulcrum means be adapted for alternately moving the pivot point rearwardly toward the rearward end of the lever arm and forwardly toward the forward end of the lift arm upon alternate levering and counter-levering of the lever arm.

At page 3 of the May 19, 2005 *Detailed Action*, The Examiner refers to a pivot point in the mechanism of *Stone*. However, the Examiner makes no finding that, upon levering and counter-levering of *Stone's* lever arm, *Stone's* pivot point alternately moves rearwardly toward the rearward end of the lever arm and forwardly toward the forward end of the life arm, as was required by Amended Claim 1. The Examiner's forbearance from entering a finding that *Stone's* pivot point moves as required by Amended Claim 1 is supported by structural limitations of *Stone's* mechanism. Therefore, the Applicants

respectfully assert that the Examiner could have appropriately declined to find that the lawn tractor lift of Amended Claim 1 is anticipated by *Stone*.

In order to more clearly distinguish the lift of Amended Claim 1 from the mechanism of *Stone*, Amended Claim 1 has been re-amended to delete all references to a pivot point element, and to replace such element with a floor contacting surface limitation. The specification of the instant application at page 7, lines 9-15 states:

> "In operation of the instant invention, and assuming incorporation of the preferred pivoting tire cradle, paired lift bars, the paired curved bars, and the paired lever bars, such tire cradle is placed upon a garage floor surface causing the left and right curved bars to simultaneously contact the garage floor at pivot points or fulcrum points near their forward end."

Accordingly, the pivot point element of Amended Claim 1 is more concisely described in the specification as a floor contacting surface, and no new matter is inserted into the application by virtue of the re-amendment of Amended Claim 1 to interpose a floor contacting surface limitation.

Looking to *Stone's* Drawing Figs. 1 and 3, it can be seen that the sole and only structure of the mechanism which has a floor contact surface is the base frame 11. Looking to the Examiner's diagram on page 3 of the May 19, 2005 *Detailed Action*, it can be seen that the Examiner has not found that *Stone's* base frame 11 is a fulcrum or is a variable fulcrum means. All of the structures which the Examiner has indicated constitutes the fulcrum or variable fulcrum means overlie

the base frame 11, and are not a part of the base frame 11. Therefore, no reasonable conclusion could be reached that *Stone's* variable fulcrum means has a floor contacting surface, as required by re-Amended Claim 1.

The Federal Circuit has held that anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration. See *W.L. Gore & Associates v. Garlock, Inc.*, 721 F.2d 1540, 220 U.S.P.Q. 303, 313 (Fed. Cir. 1983). However, it is not enough that a prior art reference disclose all the claimed elements in isolation. Rather, as stated by the Federal Circuit, anticipation requires the presence in a single reference of disclosure of each and every element of the claimed invention arranged as in the claim. See *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 U.S.P.Q. 481, 485 (Fed. Cir. 1984).

Following the standard of *W.L. Gore & Associates*, the Examiner should find that since *Stone's* fulcrum has no floor contacting surface, *Stone* does not anticipate the lawn tractor lift of re-Amended Claim 1. Therefore, *W.L. Gore & Associates*, supra, dictates that the novelty rejection of Amended Claim 1 not be extended to re-Amended Claim 1.

Even if the Examiner were to finally conclude that the mechanism of *Stone* did include some variable fulcrum means having a ground contacting surface, the Examiner would be required to further conclude that those structures are not arranged as required by re-Amended Claim 1. The ground contacting surfaces, if any, of *Stone's* variable fulcrum means could not conceivably alternately move rearwardly toward the rearward end of *Stone's* lever arm and forwardly toward the forward

end of *Stone's* lift arm upon alternate levering and counter-levering of *Stone's* lever arm. Therefore, following *Lindemann Maschinenfabrik GmbH*, supra, the Examiner should, in any event, decline to extend the novelty rejection of Amended Claim 1 to re-Amended Claim 1.

Wherefore, the Applicants respectfully request that the Examiner allow re-Amended Claim 1.

2. The Examiner has rejected Claims 2-11 under 35 U.S.C. § 102(b) and/or 35 U.S.C. § 103(a), citing *Stone '721* in support of each mode of rejection. Each of Claims 2-11 depends from re-Amended Claim 1, they each having re-Amended Claim 1 as a common parent claim. Accordingly, arguments set forth above in support of a decision by the Examiner to decline to extend the novelty rejection of Amended Claim 1 to re-Amended Claim 1 are here restated in support of withdrawal of all grounds of rejection directed to Claims 2-11. Upon allowance of re-Amended Claim 1, the Applicants respectfully request allowance of dependent Claims 2-11.

3. At page 5 of the Examiner's *Detailed Action*, the Examiner found that the limitation "adapted for" appearing in Amended Claim 1 was not a positive limitation, and did not constitute a limitation in any patentable sense. The re-amendment of Claim 1 deletes the "adapted for" limitation, and allows the limitation to comprise the specified motions of the ground contacting surfaces.

Wherefore, the Applicants respectfully request that the Examiner decline to extend to re-Amended Claim 1 the objections and rejections

which are grounded upon or are based upon Amended Claim 1's inclusion of the "adapted for" language.

4. At page 5 of the Examiner's *Detailed Action*, the Examiner also states that the pivot point element constitutes an arbitrary point which is not defined clearly in the claim. As discussed above, the re-amendment of Amended Claim 1 deletes reference to the pivot point and replaces such element with a floor contacting surface element. The Applicants respectfully assert that the floor contacting surface element is not arbitrary and is sufficiently clearly defined in the claim.

Wherefore, the Applicants respectfully request that all objections and grounds of rejections which are based upon or are grounded upon the arbitrariness or lack of clarity of the pivot point element be withdrawn.

5. **In the event an Examiner's Amendment would result in allowance of any or all claims, the Applicants invite and would welcome such an amendment.**

Request for Payment of Fees by Deposit Account

Authorization to Debit Deposit Account:

In the event that it is determined that any further payment of fee is necessary to the receipt and filing of the within response, authorization is given to withdraw from the Davis & Jack, L.L.C. USPTO Deposit Acct.

Prayer

WHEREFORE, the Applicants, Larry D. Morris and Terry L. Emond, respectfully request allowance of pending Claims 1-11.

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Respectfully submitted,

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